

United States District Court District of Massachusetts

JOHN J. CONNOLLY, JR.,

V.

CIVIL ACTION NO. 2004-12396-JLT

UNITED STATES OF AMERICA.

ORDER

COLLINGS, U.S.M.J.

It is ORDERED that the Motion Requesting Appointment of Counsel (#6) be, and the same hereby is, DENIED without prejudice. The thrust of the motion seems to indicate that counsel is needed to assist the defendant in perfecting a claim of newly discovered evidence. However, since three years have not elapsed since the verdict, any motion for a new trial on the basis of newly discovered evidence must be brought in the criminal case, Cr. No. 99-10428-JLT, pursuant to Rule 33(a), Fed. R. Crim. P. Since counsel has been appointed in that case as per Judge Tauro's direction, there is an insufficient

showing that counsel is necessary in the instant § 2255 proceeding.

/s/ Robert B. Collings

ROBERT B. COLLINGS
United States Magistrate Judge

February 3, 2005.